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| In the Matter of | | |
| Telephone Number Portability - | ) | |
| | ) | CC Docket No. 95-116 |
| Costs and Cost Recovery for Long-Term Number Portability | ) | |
| | ) | |

**COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES CONCERNING COSTS AND COST RECOVERY FOR LONG-TERM NUMBER PORTABILITY**

Pursuant to the Further Notice of Proposed Rulemaking released July 2, 1996, in the above docket ("Cost Recovery NPRM"), the Association for Local Telecommunications Services ("ALTS") hereby files these comments concerning costs and cost recovery for long-term number portability.[1]

## 1) The Cost Recovery NPRM Correctly Categorizes the Kinds of Long-Term Number Portability Costs - ¶ 208

The Cost Recovery NPRM concludes that three types of costs are involved in providing long-term service provider number portability (at ¶ 208):

> "(1) costs incurred by the industry as a whole, such as those incurred by the third-party administrator to build, operate, and maintain the databases needed to provide number portability; (2) carrier-specific costs directly related to providing number portability (e.g., the costs to purchase the switch software implementing number portability); and

[1] ALTS is a national trade association consisting of facilities-based local and exchange access competitors.

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(3) carrier-specific costs not directly related to number portability (e.g., the costs of network upgrades necessary to implement a database method)."

ALTS agrees with the Cost Recovery NPRM's identification of these three cost categories.

**2) The "Competitively Neutral" Standard of Section 251(e)(2) Applies Only to Carriers and Costs Related to Long-Term Number Portability - ¶ 209**

ALTS agrees with the Cost Recovery NPRM that Section 251(e)(1)'s requirement of competitive neutrality is directed to the costs incurred by the industry as a whole, and does not include carrier-specific costs unrelated to number portability costs (at ¶ 209). The Commission is also correct that this language relates to carriers rather than to end users. As for the definition of "telecommunications carrier," it should be interpreted as defined in Section 3 of the Telecommunications Act of 1996, new 47 U.S.C. § 3(44).

ALTS does not believe that the Commission should exempt any categories of carriers except to prevent double recovery, or to properly coordinate the timing of recovery with the implementation of long-term number portability. For example, the Commission could insure that resellers are not required to more than their appropriate share of the costs of long-term number portability.

3) **The Principles Which Govern Interim Number Portability Cost Recovery Should Also Pertain to Long-Term Number Portability - ¶ 210**

ALTS agrees with the Cost Recovery NPRM that the principles governing interim number portability cost recovery (no creation of incremental cost advantages for any competitor, and no disparate effect on competitors' ability to earn a normal return) should also apply to long-term number portability cost recovery.

4) **The Commission's Pricing Principles Should Also Apply to State-Specific Databases - ¶ 211**

The Cost Recovery NPRM is correct in concluding that the Commission's pricing principles must apply to state-specific long-term number portability schemes, as well as to any national implementations (at ¶ 211). As addressed more fully in its recent First Report and Order in Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 (released August 8, 1996; ("Local Competition Order";¶¶ 41-137)), Congress' creation of a robust environment for local competition, of which long-term number portability is an important part, requires nationwide consistency in the implementation of fundamental economic principles.

5) **Cost Levels and Cost Structures for Industry-Wide Costs - ¶¶ 212-215**

Concerning the costs shared by all carriers for long-term number portability, the Cost Recovery NPRM asks how the national and/or regional administrators should recover such costs from among carriers (at ¶ 212).

ALTS agrees that cost recovery can be administered by the national and regional database managers, and that the mechanical details of such recovery can be negotiated among those administrators. ALTS endorses the Cost Recovery NPRM's proposal that such costs should be recovered "in proportion to each telecommunications carrier's total gross telecommunications revenues minus charges paid to other carriers" (at ¶ 213).

ALTS has no objections to any LEC recovering its own portion of these industry-wide costs of implementing long-term number portability from end users through rate cases or exogenous changes to price caps, provided that no ILEC should be permitted to separately identify such charges on its bills to end users. Permitting the ILECs to label such an amount as a "number portability" charge would be inherently disparaging and misleading to consumers. As Chairman Hundt pointed out at the open meeting adopting the Cost Recovery NPRM, all customers benefit from the price competition created by number portability whether or not they ever change providers. Letting the ILECs "bad mouth" long-term number portability on end user bills without telling the full story would sabotage the competitive process envisioned by Congress.

However, ALTS respectfully submits it makes no sense to permit any ILEC to recover any portion of its share of industry-wide shared costs for long-term number portability from other carriers. If costs are allocated as the Cost Recovery NPRM recommends, each carrier will have already borne a share of these amounts. Permitting carriers to seek a further reallocation of such costs through attempts to recover from other carriers would not serve equity, economic efficiency, or better parallel the benefits of full number portability. The ILECs can no more shift any portion of their shared costs to competitive carriers than they can seek to recover their foregone monopoly profits.[2]

**6) Recurring and Non-Recurring Cost Structure - ¶ 216**

ALTS believes the Cost Recovery NPRM has correctly identified the distinctions between recurring and non-recurring costs for shared long-term number portability costs (at ¶ 216). A rate structure which implements these distinctions would maximize efficient cost recovery. However, the Cost Recovery NPRM also notes that usage costs, such as per query amounts, could be "folded into the monthly charges assessed on the carriers using the databases, which would be allocated in proportion to each carrier's gross

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[2] See Local Competition Order at ¶ 740: ILECs not entitled to recover monopoly rents lost through the implementation of competition, citing Lord Mfg. V. United States, 84 F. Supp. 748, 755-56 (Ct.Cl. 1949).

telecommunications revenues" (at ¶ 291). If the transaction costs of a more detailed rate system prove unduly high, the Cost Recovery NPRM's alternative would be acceptable.

**7) Recovery of Carrier-Specific Costs, Both Direct and Indirectly Related to Long-Term Number Portability - ¶¶ 221-230**

ALTS recommends that each carrier bear its carrier-specific costs of long-term number portability, whether those costs are direct or indirect (at ¶ 221). However, ALTS has no objection to permitting ILECs to recover their direct carrier-specific costs of implementing long-term number portability; provided: 1) regulated carriers prove such costs have not previously been recovered through rates cases or price caps; and, 2) as noted above, no carrier is permitted to label any such recovery on an end user bill as a "number portability charge" (at ¶ 224).

For the same reasons as discussed above concerning shared long-term number portability costs, ALTS believes that ILECs should not be permitted to recover their carrier-specific direct costs of long-term number portability from other carriers (at ¶ 222).

ALTS also agrees with the Cost Recovery NPRM that carrier-specific indirect long-term portability costs should be borne by each carrier (at ¶ 226).

## CONCLUSION

ALTS supports the recovery of long-term number portability costs as proposed in the Cost Recovery NPRM with the amplifications described above.

Respectfully submitted,

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August 16, 1996

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I hereby certify that the foregoing Further Reply of the Association for Local Telecommunications Services was served August 16, 1996, on the following persons by first-class mail or hand service, as indicated.

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